

United States
Circuit Court of Appeals

For the Ninth Circuit.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,

VS.

TERRITORY OF ALASKA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court of the
District of Alaska, Division No. 1.

Filed

JAN 3 1 1916

F. D. Monckton,
Clerk.

United States
Circuit Court of Appeals
For the Ninth Circuit.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,
vs.

TERRITORY OF ALASKA,
Defendant in Error.

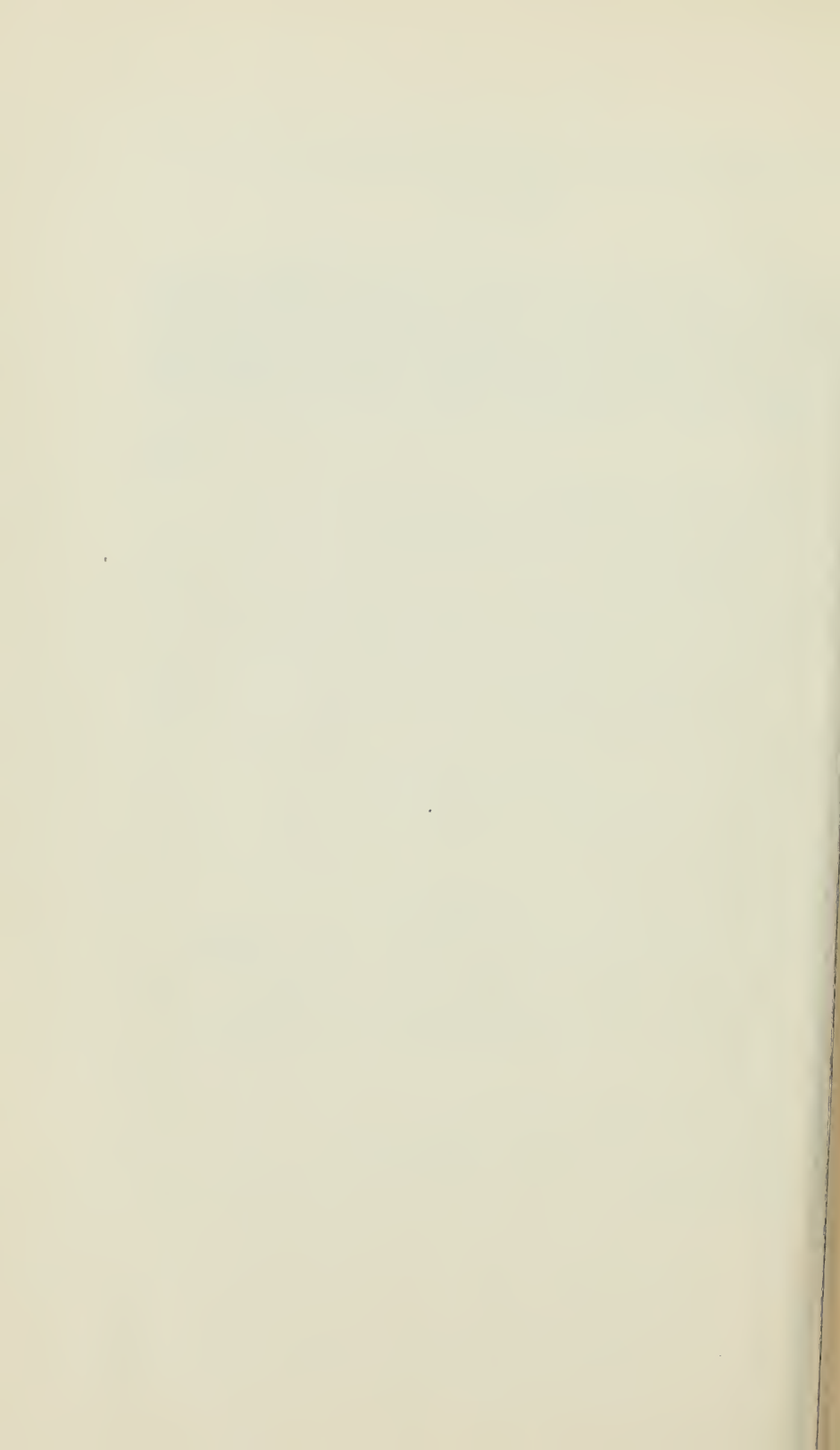
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Upon Writ of Error to the United States District Court of the
District of Alaska, Division No. 1.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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[Names and Addresses of Attorneys.]

HELLENTHAL & HELLENTHAL, Juneau,
Alaska,

Attorneys for Plaintiff in Error.

J. H. COBB, Juneau, Alaska,

Attorney for Defendant in Error.

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

Complaint.

The above-named plaintiff complaining of the
above-named defendant for cause of action alleges:

I.

The defendant is a corporation duly incorporated
under and by virtue of the laws of the State of Oregon
and doing business in the Territory of Alaska in tak-
ing and canning salmon, and has paid its annual
license tax required for doing business as a corpora-
tion, under the laws of Alaska, and has paid all its
license taxes under the act of Congress of June 26th,
1906, entitled "An act for providing and regulating
all fisheries in Alaska," and has in all respects com-
plied with the provisions of said act.

II.

That the defendant prosecuted the business of fishing for and canning salmon in Alaska between August 1st and December 31st, 1913, and during said period had canned 2627 cases of Sockeye and 117,119 cases of Cohoe or Chum salmon.

III.

That by an act of the Alaska legislature [1a*] approved April 29th, 1913, there thereby became due and owing to the Territory of Alaska under and by virtue of said act the sum of 7 cents per case for the 2627 cases of Sockeye salmon and $1\frac{1}{2}$ cent per case upon the 117,119 cases of Cohoe or Chum salmon, being a total of \$769.48, which was due and payable to the Territory on or before January 15th, 1914, but the defendant has failed and refused to take out a license as provided in the act aforesaid or to pay the license taxes due and payable under said act.

WHEREFORE the plaintiff, the Territory of Alaska, prays judgment of the defendant for the sum of \$769.48, with interest thereon from the said 15th day of January, 1914, to date at the rate of 8 per cent per annum and all costs herein incurred.

And for a second and further cause of action plaintiff alleges:

I.

It repeats the allegations of paragraph I hereof the same as if they were herein set out in full.

II.

That during the year 1914, the defendant engaged

*Page-number appearing at foot of page of original certified Record.

in the business of taking and canning salmon in Alaska; that during said year it canned 72 cases of King salmon, 27,158 cases of Sockeye and 116,558 cases of Cohoe or Chum salmon.

III.

That by the terms of the act of the territorial legislature approved April 29th, 1913, the defendant was obligated and bound to take out a license for carrying on said business and to pay a license tax thereon of 7 cents per case upon the said Sockeye and King salmon and $\frac{1}{2}$ cent per case upon the said Cohoe or Chum salmon, which said tax became due and payable on or before [2] January 15th, 1915, but the defendant has failed, refused and neglected to take out said license or pay said taxes or any part thereof, and there is now due and owing the Territory for taxes for the year 1914, from the defendant for carrying on the business aforesaid, the sum of \$2,488.89, with interest thereon at the rate of 8 per cent per annum from January 15th, 1915.

WHEREFORE the plaintiff, the Territory of Alaska, prays judgment in the said second cause of action for the sum of \$2,488.89, with interest thereon as aforesaid and all costs herein incurred.

J. H. COBB,

Chief Counsel for the Territory of Alaska. [3]

United States of America,
Territory of Alaska,—ss.

J. H. Cobb being first duly sworn on oath deposes and says: I am chief counsel for the Territory of Alaska. I have read the above and foregoing com-

plaint and the same is true as I verily believe.

J. H. COBB.

Subscribed and sworn to before me this the 31st day of December, 1915.

[Notarial Seal]

E. L. COBB,

Notary Public in and for Alaska.

My commission expires Dec. 3, 1918.

Filed in the District Court, District of Alaska,
First Division. Dec. 31, 1915. J. W. Bell, Clerk.
By L. E. Spray, Deputy. [4]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

Judgment.

This cause came on regularly to be heard, upon the demurrer of the defendant to the plaintiff's Complaint, Mr. Hellenthal appearing for and Mr. Cobb against, and the Court having heard said demurrer and being fully advised in the premises, overrules the same, to which ruling the defendant then and there excepted.

And the defendant in open court announced that it did not desire leave to answer, but elected to stand upon the said demurrer, whereupon the plaintiff, by

Mr. Cobb, moved the Court for judgment, and the motion is granted.

IT IS THEREFORE CONSIDERED BY THE COURT and it is so ordered and adjudged, that the plaintiff, the Territory of Alaska, do have and recover of and from the defendant, the Alaska Pacific Fisheries, a corporation, on its first cause of action the sum of \$769.48 with interest thereon from January 15th, 1914, at the rate of 8 per cent per annum, aggregating \$885.05, and upon its second cause of action the sum of \$2,488.89 with interest thereon at the rate of 8 per cent per annum from January 15th, 1915, aggregating \$2611.40, and aggregating in all [5] \$3,496.45, with interest thereon from the date hereof at the rate of 8 per cent per annum, and all costs, for all of which let execution issue.

Dated this 31st day of December, 1915.

ROBERT W. JENNINGS,

Judge.

Filed in the District Court, District of Alaska, First Division. Dec. 31, 1915. J. W. Bell, Clerk. By C. Z. Denny, Deputy. [6]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

Bill of Exceptions.

BE IT REMEMBERED that the defendant herein duly and regularly and within the time provided by law therefor filed its Demurrer, which is in words and figures as follows:

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

Demurrer to Plaintiff's Complaint.

Comes now the defendant, and demurs to complaint of plaintiff herein on the following grounds, to wit:

I.

That the facts stated in said complaint are not sufficient to constitute a cause of action against defendant or at all.

II.

That the act of Congress dated June 26, 1906, the same being chapter 3, title 7, of the laws of Alaska relating to fish and fisheries, which said act deals with salmon fisheries and provides for payment of certain license taxes by those engaged in the business of canning, curing and preserving fish, and manufacturing fish products within the Territory of Alaska in lieu of all other license fees and taxes therefor and thereon, is still in full force and effect, neither the same nor any part [7] thereof having been repealed by

subsequent legislation, and the defendant, having paid the license tax provided thereby and therein, and having received a license in compliance with said act, said license fee and tax having been paid in lieu of all other taxes, is not subject to or liable for other license fees or taxes.

III.

That under the provisions of chapter 52 of the acts of the territorial legislature of Alaska for the year 1913, being an act entitled "An act to establish a system of taxation, create revenue and provide for the collection thereof for the Territory of Alaska and other purposes," being the act set forth in the complaint and which is relied upon as a basis and foundation for the case and action against defendant, no civil liability is created and the defendant, Alaska Pacific Fisheries, is not made by the provisions of that act, civilly liable to the Territory of Alaska for the payment of any sum whatsoever, nor does said act contain any provisions under which said Alaska Pacific Fisheries could or did become indebted to the Territory of Alaska in any sum whatsoever.

That said act merely makes it an offense to prosecute or attempt to prosecute any of the lines of business therein mentioned, without first applying for and obtaining a license so to do, making said offense a misdemeanor and punishable as provided in said act, without providing that those prosecuting or attempting to prosecute any of the lines of business for which said license is required, shall be indebted to the Territory of Alaska in any sum whatsoever.

That the provisions of chapter 76 of the acts of the

territorial legislature for the year 1915, referred to in the complaint, if construed to impose a civil liability for a tax in connection with the operation of fisheries or of canning fish prior to its enactment, is retroactive and therefore void, and is obnoxious to the provisions of the Constitution of the United States in that regard.

That no civil remedy for the collection of license taxes imposed or sought to be imposed by the provisions of chapter 52 of the Session Laws of the Territory of Alaska for the year 1913 above referred to, or for the collection or enforcement of any other obligation imposed or sought to be imposed by said act, provided for by said act, said act making it solely a criminal offense for which no remedy except such as is resorted to in the enforcement of criminal laws is provided, and that if chapter 76 of the Session Laws of the Territory of Alaska for the year 1915, referred to, is so construed as to substitute a remedy under civil procedure in place of a remedy under criminal procedure or as adding a civil remedy in addition to the remedy under criminal procedure, said act is retroactive and *ex post facto* in that regard, and void as being in conflict with and obnoxious to the provisions of the Constitution of the United States.

[8]

Further, that no liability can exist under the provisions of chapter 52 of the Session Laws for the year 1913, of the Territory of Alaska, above referred to, in view of the fact that chapter 76 of the Session Laws of the Territory of Alaska for the year 1915 repeals the same.

IV.

That chapter 52 of the acts of the territorial legislature for the year 1913, referred to in the complaint, is void, especially in so far as it relates to the matters and things referred to in the complaint herein for the reason that it was and is impossible for the Alaska Pacific Fisheries to comply with the provisions of said act, and to apply for and obtain a license as therein provided in that said act requires salmon canneries and the defendant, as an owner of such canneries, to apply for and procure a license in advance and pay therefor in advance, an amount which cannot or could not be determined until the close or after the close of the season's operations, in that the amount to be paid depends upon the number of cases of the various kinds of salmon packed during the year for which the license is obtained, making it impossible to ascertain in advance what the amount of license to be paid is, for any given year.

Further, that it would be impossible for a Court or Judge thereof to pass upon the application made by the defendant, if such application had been made in compliance with the provisions of said act, for the reason that it would be impossible for the Court or Judge thereof to determine whether the amount paid were correct or not correct, since that matter could be determined only upon the conclusion of the season's work, when the number of cases of each kind of fish had been determined upon and could be counted.

Further, that said provisions of chapter 52 of the Session Laws of the Territory of Alaska for the year 1913, in so far as they relate to matters at issue here-

in, are void because the penalty imposed is so indefinite that the Court could not pronounce judgment upon a conviction or plea of guilty, since the amount fixed as a penalty for the first offense is the amount of the license, for the second offense twice the amount and so on, the penalty for each offense depending upon the amount of the license, which it would be impossible to determine in any case unless the act had been violated throughout the entire season, in order that the amount of the pack for that season could be determined upon, and if the act had been violated for a whole season, it could not be enforced because the penalty imposed would be confiscatory and so severe as to be unusual and in violation of the provisions of the Federal Constitution in that regard.

And further, that said act is void because it would be impossible for the defendant to comply therewith in that the clerk of the court could not act as an officer for the Territory of Alaska, in receiving a license fee or issuing a license, and that the Judge could not act as a territorial officer in [9] passing upon a license.

V.

That under the averments of the complaint the defendant could not comply with the provisions of the act above referred to as chapter 52 of the Session Laws of the Territory of Alaska for the year 1913, in view of the fact that the clerk of the court did not file a bond as provided for in said act, and did not qualify to act under the provisions of said act, so as to be qualified to accept moneys or otherwise to act under the provisions of said act, in connection with the issuance of licenses.

VI.

That said act, chapter 52 of the Session Laws of the Territory of Alaska for the year 1913, above referred to, is void especially in so far as it relates to matters and things referred to in the complaint, for the reason that under its provisions defendant is compelled to make application to the District Court or Judge thereof for a license to carry on a useful business necessary to society, and to use its property, to wit, its salmon canneries, reposing in said court or Judge thereof the arbitrary power to grant or refuse said license, and giving said court or Judge thereof the power to arbitrarily or capriciously deny the defendant the right to carry on the business of canning salmon and the right to employ and use its salmon canneries in conducting the business for which the same were designed, same being a lawful and useful occupation and business.

That the provisions above referred to are an invasion of the defendant's right to private property, depriving it of property without due process of law and denying to defendant the privileges and immunities to which it is entitled under the provisions of the Constitution of the United States, and otherwise conflicts and is obnoxious to the provisions of the Constitution of the United States.

VII.

That said chapter 52 of the Session Laws of the Territory of Alaska for the year 1913 is void, especially in so far as it relates to the facts in this case, for the further reason that under the provisions of said act, a license is required not for the purpose

of regulation under police power but for the purpose of raising revenue under the taxing power and for the last-mentioned purpose only.

That under the provisions of the Organic Act of the Territory of Alaska, providing for a legislature and conferring thereon powers therein mentioned, said legislature has not the authority to impose a license tax or require a license fee for the purpose of taxation or for the purpose of raising revenue, and that the power of said legislature in the collection of taxes is limited by the following provisions: "All [10] taxes shall be uniform upon the same classes of subjects, and shall be levied and collected under general laws, and assessments shall be according to the actual value thereof," as well as by other provisions contained in the Organic Act.

That under the provisions and limitations contained in the said Organic Act, the territorial legislature has not the power or authority to impose a license tax or require the payment of license fees, for the purpose of raising revenue. That the license sought to be imposed under the provisions of chapter 52 of the Sessions Laws of the Territory of Alaska for the year 1913, above referred to, is imposed without any assessment whatsoever and without any regard to the value of the subject or thing sought to be taxed, contrary to the provisions of the Organic Act in that regard.

VIII.

Further, that the tax sought to be collected in this action is, in fact, a specific tax upon property and is imposed without regard to the value of the

property taxed, and without any assessment on the property sought to be taxed, contrary to provisions of the Organic Act.

IX.

Further that said tax is a violation of the provisions of the Organic Act in that it is not uniform upon the same classes of subjects.

HELLENTHAL & HELLENTHAL,

Attorneys for the Defendant.

BE IT FURTHER REMEMBERED that thereafter this cause came on regularly for hearing on the demurrer of the defendant so filed and the Court being fully advised in the premises overruled said demurrer, to which ruling and order of the Court the defendant, by counsel, then and there excepted, on the grounds set forth in the demurrer, as well as other grounds, including the ground that no liability exists under the facts stated in the complaint; that the act of the territorial legislature relied upon in the complaint as a basis for the alleged liability is void especially in so far as it relates to the facts set up in the complaint, for the reason that the same is in conflict with the provisions of the Constitution [11] of the United States in the particulars pointed out in the demurrer as well as in other particulars and violates the provisions of the Organic Act in the particulars pointed out in the demurrer, as well as in other particulars, which exception was then and there allowed by the Court.

Whereupon the defendant electing to stand on its demurrer, the Court entered judgment herein, to which action of the Court in so entering judgment,

the defendant by counsel duly excepted, which exception was allowed by the Court.

**[Order Settling and Allowing Bill of Exceptions,
etc.]**

And now this matter coming on to be heard on the application of the defendant to have the above and foregoing bill of exceptions settled and allowed by the Court and made a part of the record herein, and the Court being fully advised in the premises, now settles and allows the above and foregoing as the full, true and correct bill of exceptions herein, and orders that the same be made part of the record and the Court hereby certifies that the above and foregoing bill of exceptions contains a full and complete record of the proceedings had in this cause and is signed, settled and allowed by the Court as in all respects speaking the truth and is made part of the record herein.

ROBERT W. JENNINGS,
Judge.

Filed in the District Court, District of Alaska,
First Division. Dec. 31, 1915. J. W. Bell, Clerk.
By C. Z. Denny, Deputy. [12]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

*United States Circuit Court of Appeals for the Ninth
Circuit, Holden at San Francisco.*

Case No. 1416-A.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,

vs.

TERRITORY OF ALASKA,
Defendant in Error.

Petition for Writ of Error.

To the Honorable ROBERT W. JENNINGS, Judge
of the District Court for the Territory of
Alaska, Division Number One:

Now comes the above-named Alaska Pacific Fisheries, a Corporation, the plaintiff in error herein, by its attorneys, Hellenthal & Hellenthal, and complains that in the record and proceedings had in the District Court for the Territory of Alaska, Division Number One, in case No. —, the Territory of Alaska, plaintiff, and defendant in error, against the Alaska Fisheries, defendant, and plaintiff in error, and also in the rendition of the judgment in said cause in the District Court for the Territory of Alaska, Division Number One, against the Alaska Pacific Fisheries on the 31st day of December, 1915, wherein the District Court for the [13] Territory of Alaska adjudged the defendant, the Alaska Pacific Fisheries, to be indebted to the plaintiff, the Territory of Alaska, in the sum of \$3,496.45, and wherein the plaintiff, the Territory of Alaska, was given judgment against the defendant, the Alaska Pacific

Fisheries, for the sum of \$3,496.45 and costs, taxed at \$——, manifest error hath happened to the great damage of said Alaska Pacific Fisheries, as will more fully appear from the assignment of errors filed herewith.

WHEREFORE the Alaska Pacific Fisheries prays for the allowance of a writ of error, and for an order fixing the amount of the bond in said cause, and for such other orders and processes as may cause the said errors to be corrected by the United States Circuit Court of Appeals for the Ninth Circuit.

Dated this 31st day of December, A. D. 1915.

HELLENTHAL & HELLENTHAL,

Attorneys for Alaska Pacific Fisheries.

Filed in the District Court, District of Alaska,
First Division. Dec. 31, 1915. J. W. Bell, Clerk.
By C. Z. Denny, Deputy. [14]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

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vs.

ALASKA PACIFIC FISHERIES, a Corporation,
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*United States Circuit Court of Appeals for the Ninth
Circuit, Holden at San Francisco.*

Case No. 1416-A.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,

vs.

TERRITORY OF ALASKA,
Defendant in Error.

Assignment of Errors.

Comes now the Alaska Pacific Fisheries, the plaintiff in error, and assigns the following errors committed by the Court in connection with the trial and rendition of judgment herein, the errors so assigned being the errors which the plaintiff in error intends to urge before the United States Circuit Court of Appeals for the Ninth Circuit, and are the errors relied upon for a reversal of the judgment herein:

First Error Assigned.

The Court erred in overruling the demurrer of the defendant herein. [15]

Second Error Assigned.

That the Court erred in entering judgment herein for the plaintiff and against the defendant.

HELLENTHAL & HELLENTHAL,
Attorneys for Alaska Pacific Fisheries.

Filed in the District Court, District of Alaska,
First Division. Dec. 31, 1915. J. W. Bell, Clerk.
By C. Z. Denny, Deputy. [16]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

**Order [Allowing Writ of Error and Fixing Amount
of Supersedeas and Cost Bond].**

This matter coming on to be heard on the petition of the Alaska Pacific Fisheries, for a writ of error, and the assignment of errors having been regularly filed with said petition, the writ of error is hereby allowed as prayed for in said petition and the amount of the supersedeas and cost bond is fixed at four thousand (\$4,000) dollars, to be approved by the Court or the clerk thereof.

Dated this 31st day of December, 1915.

ROBERT W. JENNINGS,
Judge.

Filed in the District Court, District of Alaska, First Division. Dec. 31, 1915. J. W. Bell, Clerk. By C. Z. Denny, Deputy. [17]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

*United States Circuit Court of Appeals for the Ninth
Circuit, Holden at San Francisco.*

Case No. 1416-A.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,

vs.

TERRITORY OF ALASKA,

Defendant in Error.

Bond on Writ of Error.

KNOW ALL MEN BY THESE PRESENTS
that we, the Alaska Pacific Fisheries, a Corporation,
as principal, and B. M. Behrends, as surety, are held
and firmly bound unto the above-named Territory
of Alaska in the just and full sum of Four Thousand
(\$4,000) Dollars to be paid to the said Territory of
Alaska, its attorneys or assigns, to which payment,
well and truly to be made, we bind ourselves, our
heirs, executors and administrators, jointly and sev-
erally by these presents. Sealed with our seals and
dated this 31st day of December, A. D. 1915.

WHEREAS, lately in the District Court for the

Territory of Alaska, Division Number One, in an action therein pending between the Territory of Alaska, as plaintiff, and The Alaska Pacific Fisheries, as defendant, a judgment was [18] rendered against the said Alaska Pacific Fisheries for the sum of \$—— and costs, and the said Alaska Pacific Fisheries having obtained a writ of error, and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid action and the citation directed to the said Territory of Alaska, citing and admonishing it to be and appear at the session of the United States Circuit Court of Appeals for the Ninth Circuit to be holden at the city of San Francisco, State of California, within thirty days from the date of approval of this bond.

Now, the condition of the above obligation is such that if the said Alaska Pacific Fisheries shall prosecute said writ of error to effect and answer all damages and costs if it fail to make its said plea good, then and in that event the above obligation to be void, otherwise to remain in full force and virtue.

ALASKA PACIFIC FISHERIES.

By J. A. HELLENTHAL,
Its Attorney,
Principal.
B. M. BEHREND, S.
Surety.

Signed, sealed and delivered in the

H. J. TURNER.
MISS BURKLAND.

The above and foregoing Supersedeas and cost bond is hereby duly approved, not only as to form,

but also as to the surety thereon, this 31st day of December, 1915.

ROBERT W. JENNINGS,
Judge of the District Court for the Territory of
Alaska, Division Number One.

Filed in the District Court, District of Alaska,
First Division. Dec. 31, 1915. J. W. Bell, Clerk.
By C. Z. Denny, Deputy. [19]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

*United States Circuit Court of Appeals for the Ninth
Circuit, Holden at San Francisco.*

Case No. 1416-A.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,

vs.

TERRITORY OF ALASKA,

Defendant in Error.

Writ of Error.

United States of America,—ss.

The President of the United States of America to
the Honorable ROBERT W. JENNINGS,
Judge of the District Court for the Territory
of Alaska, Division Number One, Greeting:

Because of the record and proceedings, as also in
the rendition of the judgment of a plea, which is in
said District Court, Division Number One thereof,
before you, between the Territory of Alaska, as
plaintiff, and the Alaska Pacific Fisheries, a corpo-
ration, as defendant, a manifest error hath happened
to the great prejudice and damage of the said Alaska
Pacific Fisheries as set forth and appears by the
petition herein,

We, being willing that error, if any hath happened,
[20] should be duly corrected and full and speedy
justice done to the parties aforesaid in this behalf,
do command you, if judgment be therein given, that
then under your seal distinctly and openly you send
the records and proceedings aforesaid with all things
concerning the same to the Justices of the United
States Circuit Court of Appeals for the Ninth Cir-
cuit, in the city of San Francisco, in the State of
California, together with this writ, so as to have the
same at said place and said Circuit on or before
thirty days from the date hereof that the record and
proceedings aforesaid being inspected the said Cir-
cuit Court of Appeals may cause further to be done
therein to correct those errors what of right, and
according to the laws and customs of the United

States, should be done.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States, this 31st day of December, A. D. 1915.

Attest my hand and the seal of the District Court for the Territory of Alaska, Division Number One, at the clerk's office at Juneau on the day and year last above written.

[Seal]

J. W. BELL,
Clerk of the District Court for the Territory of
Alaska, Division Number One.

By C. Z. Denny,
Deputy.

Allowed this 31st day of December, A. D. 1915.

ROBERT W. JENNINGS,
Judge.

Service admitted this Dec. 31st, 1915.

J. H. COBB,
Chf. Counsel Ter. of Alaska.

Filed in the District Court, District of Alaska,
First Division. Dec. 31, 1915. J. W. Bell, Clerk.
By C. Z. Denny, Deputy. [21]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
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*United States Circuit Court of Appeals for the
Ninth Circuit Holden at San Francisco.*

Case No. 1416-A.

ALASKA PACIFIC FISHERIES, a Corporation,
Plaintiff in Error,

vs.

TERRITORY of ALASKA,
Defendant in Error,

Citation on Writ of Error.

The President of the United States to the Territory
of Alaska, the Above-named Plaintiff, Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, State of California, within thirty (30) days from the date of this Citation, pursuant to a Writ of Error filed in the clerk's office of the District Court for the Territory of Alaska, Division Number One, wherein the Alaska Pacific Fisheries, a Corporation, is the plaintiff in error and you, the said Territory of Alaska, are the defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should [22] be done to the parties in that behalf.

WITNESS the Honorable EDWARD D. WHITE, Chief Justice of the Supreme Court of the United States of America, this 31st day of De-

cember, A. D., 1915, and of the Independence of the United States the 139th.

[Seal]

ROBERT W. JENNINGS,

Judge.

Service of the foregoing citation admitted this the 31st day of Dec. 1915.

J. H. COBB,

Chief Counsel for the Ter. of Alaska.

Filed in the District Court, District of Alaska, First Division. Dec. 31, 1915. J. W. Bell, Clerk. By C. Z. Denny, Deputy. [23]

*In the District Court for the Territory of Alaska,
Division Number One, at Juneau.*

Case No. 1416-A.

TERRITORY OF ALASKA,

Plaintiff,

vs.

ALASKA PACIFIC FISHERIES, a Corporation,
Defendant.

Praeceptum [for Transcript of Record].

Kindly prepare and transmit to the Circuit Court of Appeals for the Ninth Circuit copies of the following: Complaint, Bill of Exceptions, Judgment, Petition for Writ of Error, Assignment of Errors, Order Allowing Writ of Error, Bond on Writ of Error, Writ of Error, Citation on Writ of Error.

HELLENTHAL & HELLENTHAL,

Attorneys for Defendant.

Filed in the District Court, District of Alaska,
First Division Dec. 31, 1915. J. W. Bell, Clerk.
By C. Z. Denny, Deputy. [24]

*In the District Court for the District of Alaska,
Division No. One, at Juneau.*

United States of America,
District of Alaska,
Division No. 1,—ss.

**Certificate [of Clerk U. S. District Court to
Transcript of Record].**

I, J. W. Bell, Clerk of the District Court for the District of Alaska, Division No. 1, hereby certify that the foregoing and hereto attached 24 pages of typewritten matter, numbered from 1 to 24, both inclusive, constitute a full, true, and complete copy, and the whole thereof, prepared in accordance with the praecipe of defendant and plaintiff in error, on file in my office and made a part hereof, in Cause No. 1416-A. wherein Alaska Pacific Fisheries, a Corporation, is defendant and plaintiff in error and Territory of Alaska is plaintiff and defendant in error.

I further certify that the said record is by virtue of the writ of error and citation issued in this cause, and the return thereof in accordance therewith.

I further certify that this transcript was prepared by me in my office, and the cost of preparation, examination and certificate, amounting to Eleven and 25/100 Dollars (\$11.25) has been paid to me by counsel for plaintiff in error.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the above-entitled Court this 31st day of December, 1915. ..

[Seal]

J. W. BELL,
Clerk.

By _____,
Deputy. [25]

[Endorsed]: No. 2731. United States Circuit Court of Appeals for the Ninth Circuit. Alaska Pacific Fisheries, a Corporation, Plaintiff in Error, vs. Territory of Alaska, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the District of Alaska, Division No. 1.

Filed January 7, 1916.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

